

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

RONALD ROSS,

Plaintiff,

V.

SEARS ROEBUCK & COMPANY,  
a/k/a SEARS ROEBUCK & CO.,

Defendants.

Civil Action No. 06-272(SLR)

**NOTICE OF ORAL DEPOSITION PURSUANT TO FEDERAL RULE OF CIVIL  
PROCEDURE 30(b)(6)**

Defendant Sears, Roebuck and Co., hereby gives notice in accordance with Rule 30(b)(6) of the Federal Rules of Civil Procedure that the deposition of **Opportunity Center Inc.** upon oral examination will be taken on **July 23, 2008**, commencing at **10:00 am** at the law offices of **Ballard Spahr Andrews & Ingersoll, LLP, 919 Market Street, 12<sup>th</sup> Floor, Wilmington, Delaware** before a person authorized to administer oaths, in accordance with the Federal Rules of Civil Procedure. Said deposition(s) shall continue from day to day until completion.

Pursuant to the Federal Rules of Civil Procedure, the person(s) designated by Opportunity Center Inc. to testify on its behalf will be interrogated concerning the matters described below in this notice. Further, pursuant to the Federal Rules of Civil Procedure, Opportunity Center Inc. shall file and serve upon counsel for Defendant Sears, Roebuck and Co., its designation of one or more persons to testify on its behalf and shall set forth in such designation the matters upon which the person(s) so designated by Opportunity Center Inc. will testify with specific reference to the subject areas listed below.

In accordance with the Federal Rules of Civil Procedure, Opportunity Center Inc. is hereby advised that Defendant Sears, Roebuck and Co. will be inquiring into the following matter at the deposition(s):

**Opportunity Center Inc.'s Job Analysis dated June 23, 2004 (copy attached hereto)**

/s/ Katie A. D'Emilio

Katie A. D'Emilio, Esquire (No. 4824)

BALLARD SPAHR ANDREWS

& INGERSOLL, LLP

919 Market Street, 12<sup>th</sup> Floor

Wilmington, DE 19801

Phone: (302) 252-4450

Facsimile: (302) 355-0831

E-mail: demiliok@ballardspahr.com

-and-

Steven W. Suflas, Esquire

Jennifer L. Sova, Esquire

Plaza 1000 - Suite 500, Main Street

Voorhees, New Jersey 08043

Phone: (856) 761-3400

Facsimile: (856) 873-9041

E-mail: suflas@ballardspahr.com

sovaj@ballardspahr.com

Counsel for the Defendant

Dated: June 13, 2008

## Opportunity Center Inc.

### Job Analysis

Job Title: Receiving Associate Employer: Sears & Roebucks  
Address: 4737 Concord Pike, Concord Mall, Wilmington, DE 19803  
(On Bus Line?        No   X   Yes Route Number(s) #2  
Supervisor Name/Title/Phone: Store Manager: Mike Lund, Operations Manager: Lois Rocky (302) 477-3400

#### Schedule:

Start Time: Varied, could be as early as 7:00 am

End Time: Varied, could be as late as store closing

Other: Schedule is usually 6-8 hour shift for 5 days (Monday thru Saturday with rotating Sundays) for a total of 30 - 40 hours/week. This position is full-time status.

Accessible Worksite: (entrance, restrooms, breakrooms, work area) Yes   X   No         
Explain: Accessible bathrooms, entry ways, automatic doors, and ramps.

#### Salary/Benefits:

Salary Range: \$7.70 (start)- \$11.90 (ceiling) Per Hour

Health Insurance	<input checked="" type="checkbox"/>	Pension/Retirement Plan	<input checked="" type="checkbox"/>	Other: <u>401 K,</u>
Paid Sick Days	<input type="checkbox"/>	Paid Vacation	<input checked="" type="checkbox"/>	<u>store discount</u>
Disability	<input checked="" type="checkbox"/>	Dental Benefits	<input checked="" type="checkbox"/>	

Note: Health Insurance, Disability, Retirement Plan, 401K, and Dental Benefits are all optional. Until recently, Pension was non-contributory but is not anymore.

#### List General Job Duties By Major Tasks:

- ❖ Unload delivery trucks according to the defined procedures
- ❖ Prepare and move merchandise to the appropriate staging locations including the stockrooms, HFM, customer pick-up bins, and the sales floor
- ❖ Promptly serve the customer at merchandise pick-up
- ❖ Use the SNC to scan load level and barcode receipts into NROS
- ❖ Perform the seal control verification on all load level receiving
- ❖ Implement the High Value Item verification process
- ❖ Properly segregate all exception-based merchandise
- ❖ Must properly use material handling and safety equipment
- ❖ Perform miscellaneous duties, as assigned

#### List Skills Required:

- ❖ Reading
- ❖ Discrimination skills
- ❖ Time Management skills
- ❖ Inter-personal skills (Customer relations and co-workers)
- ❖ Spatial Discrimination
- ❖ Minimal Computer Aptitude

Job Analysis Form

Page 2

- ❖ Ability to learn to operate several pieces of equipment (forklift, Electric Pallet Jack, Handtruck, Hand-held laser reader
- ❖ Ability to learn safety and OSHA requirements.
- ❖ Decision making skills

**Describe Work Environment:** Work environment is a well-lit warehouse that is 30,000 square feet. It is climate controlled and a busy work setting.

**Is the work site in compliance with all local and State of Delaware fire codes?** ☒ yes ☐ no  
 (Note: OCI staff are not qualified or trained to make this determination. This information is provided by the employer.)

**Physical Requirements/Demands:**

(select one)

- ☐ Sedentary: Lifting 10 Pounds Maximum
- ☐ Light Work: Lifting 20 Pounds Maximum
- ☐ Medium Work: Lifting 40 – 50 Pounds Maximum
- ☒ Heavy Work: Lifting 80 – 100 Pounds Maximum
- ☒ Very Heavy Work: Lifting Over 100 Pounds

*While performing this job, the employee is required to:*

	Yes	No	How Often?	How Long? (% of time)
Twist	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Often	1%-33%
Stoop/Bend	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Often	1%-33%
Squat	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Constant	67%-100%
Kneel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Often	1%-33%
Crawl	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Climb Ladders	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Often	1%-33%
Climb Stairs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Often	1%-33%
Reach Above Head	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Constant	67%-100%
Stand	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Often	1%-33%
Sit	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Carry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Constant (10-100lbs)	67%-100%
Push/Pull	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Constant (10-100lbs)	67%- 100%
<b>Environment</b>				
Inside	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Constant	67%-100%
Outside	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Often	1%-33%
Fumes/Dust	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Hardly ever-very well ventilated	2%
Noise/Vibrations	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Never	
Hot/Cold	<input type="checkbox"/>	<input type="checkbox"/>	Occasionally chilly when loading dock door is open	Climate Controlled

D 00540

Job Analysis Form

Page 3

**Endurance;** length of time uninterrupted work (w/out breaks): 3 hours (average)

**Social Environment:** This position works... (check all that apply)

Around a small group of people (2 – 6): ☐

Interactively with a few co-workers: ☐

Alone/Isolated: ☐

Around a large group of people (6+): ☒

Interactively with many co-workers: ☒

Directly with Supervisor: ☒

**Describe:** Works in a team of approximately 6 people, must interact with all store associates, customers, and supervisor.

**Overall Job – Level of Difficulty:** To the best of your ability, rate the following requirements by the level of difficulty scale below:

	None 0	Very Little 1	Little 2	Some 3	Much 4	Very Much 5
Job Requirements	Rating Explain/Describe					
Job Knowledge; (complex & practical knowledge needed)	4 There are so many different functions of the job. Once a person is trained, they are required to know a lot of practical knowledge.					
Initiative/Decision Making;	5 The associates need to be able to see what needs to be done and do it.					
Mental Alertness;	4 There could be serious safety hazards & customer service issues if an associate is not alert					
Judgement;	3 There could be serious safety hazards & customer service issues if an associate has poor judgment.					
Adaptability;	5 Technology is always changing and the scope of work changes with more advanced technology.					
Dexterity;	3 The job requires more gross motor ability than dexterity.					
Accuracy;	5 There are so many different functions of the job that accuracy can be extremely difficult. When mistakes are made, it can result in poor customer satisfaction, inventory issues, or merchandise mismanagement.					
Problem Solving;	4 Although working in a team, the associate needs to be able to solve problems independently, while maintaining customer pledges.					
Ability to Follow Directions;	5 Directions will vary according to which function is being performed.					
Reading	5 The associates must be able to discriminate between items and read customer names; as well as locate items in the warehouse.					
Math	1					

D 00541

Job Analysis Form

Page 4

**Qualifications: (Experience/Education/Training)**

Is previous work experience required? \_\_\_\_\_ Yes, X No; Specify: \_\_\_\_\_

Education/Training/Licensure required? \_\_\_\_\_ Yes, X No; Specify below

	Describe
<input type="checkbox"/> High School/GED	
<input type="checkbox"/> Vo-Tech/Vocational Training	
<input type="checkbox"/> College	
<input type="checkbox"/> Drivers License	
<input type="checkbox"/> Other	

The only requirements are that they must be able to perform all work functions and be willing to work in a team environment. Also, Sears provides on-going training, related to the position, which must be completed.

**Output:** If possible, describe the job output expected; (Tasks to complete per hour or day; ex: calls made per hour, areas of the building cleaned each shift, number of pieces assembled each hour, etc.):

Please see attached "Activity-Based Standards", provided by Sears. This form contains all of the outputs pertaining to unloading trucks and moving stock.

In addition to those outputs, Receiving Associates wait on customers who come in to pick up their orders. Those customers are promised their merchandise in 5 minutes or less.

**Other Comments/Observations:**

There are numerous pieces of equipment that each Receiving Associate needs to operate. The following is a list of the more technical equipment and how much time is spent using them:

**Forklift:** Sears will certify to use. Associates use a forklift approximately 25% of their work time.

**Electric Pallet Jack:** Sears will teach associates to use. Associates use this item approximately 40% of their work time.

**Laser Reader "SNC":** This item is similar to a palm pilot but it is customized to Sears inventory and communication needs. There are numerous functions on the "SNC" that an associate must use. The main menu includes the following functions:

- |                       |                  |
|-----------------------|------------------|
| * Fill Floor          | * Zero Counts    |
| * Price Look-up       | * Replenishments |
| * Floor Samples       | * Bin Tickets    |
| * Merchandise Pick-up | * Receiving      |
| * On-hand counts      |                  |

D 00542

RX Date/Time

05/12/2008 09:34

3027628795

MAY 12 '08 10:01 FR OCI EMPLOYMENT SERVIC 3027628795 TO 2524466

P.07

P.007

## Job Analysis Form

Page 5

Each Receiving Associate uses their "SNC" approximately 99% of their work time. They must know how to access information pertaining to whatever task they are performing. Since they are relying on trucks arriving and customer pick-ups, they may need to access any of the menu functions at any given time.

**Bailer / Compactor:** This piece of equipment condenses boxes mechanically. After the boxes are compact, the associate must bail them by hand. Associates use this machine approximately 10% of their work time.

There are other pieces of equipment that the Receiving Associate must use on a daily / occasional basis. They are as follows:

**Personal Computer:** Computers are used for various functions, such as:

- ❖ Time Management (clocking in and out, requesting time off...)
- ❖ Retrieving customer information
- ❖ E-training
- ❖ Obtaining weekly schedule

**Box-cutter:**

Hand-held razor knife used to open boxes

**Hand-truck:**

Non-motorized, upright device used to move heavy merchandise.

**Ladders:**

Used to retrieve / shelf merchandise

**Freight Elevator:**

Used to move merchandise from stock room to store.

*AkronaLorin*

OCI Staff Signature

*6/23/04*

Date Completed

Attachment: Activity-Based Standards

D 00543

**CERTIFICATE OF SERVICE**

I, Katie A. D'Emilio, hereby certify that the foregoing Notice by Defendant Sears, Roebuck and Co. of the Oral Deposition of Opportunity Center Inc., Pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure was served today first class mail, postage prepaid on the following:

Gary W. Aber, Esquire  
Aber, Goldlust, Baker & Over  
702 King Street  
Suite 600  
Wilmington, DE 19801

Dated: June 13, 2008

/s/ Katie A. D'Emilio  
Katie A. D'Emilio, Esquire (No. 4824)